



7020-02

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1068]

### **Certain Microfluidic Devices; Notice of Modification of Deadline for Reply Supplemental Submissions on the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined to modify the deadline for reply supplemental submissions on the public interest.

**FOR FURTHER INFORMATION CONTACT:** Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-3427. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On September 6, 2017, the Commission instituted this investigation based on a complaint filed by Bio-Rad Laboratories, Inc. of Hercules,

California (“Bio-Rad”) and Lawrence Livermore National Security, LLC of Livermore, California (collectively, “Complainants”). 82 FR 42115 (Sept. 6, 2017). Complainants alleged a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), by 10X Genomics, Inc. of Pleasanton, California (“10X”) based on its importation into the United States of certain microfluidic devices asserted to infringe one or more claims of U.S. Patent Nos. 9,500,664; 9,636,682; 9,649,635; and 9,126,160. *Id.* The Office of Unfair Import Investigations was also named as a party in this investigation. *Id.* The Commission also directed the ALJ to take evidence and hear arguments regarding the public interest and provide the Commission with findings of fact and a recommended determination on the statutory public interest factors, as requested by 10X. *Id.*

On September 20, 2018, the presiding administrative law judge (“ALJ”) issued a final initial determination finding that 10X violated section 337 through its importation of its GEM-Q and GEM-U Chips (collectively, the “GEM Chips”). However, the ALJ found no violation by 10X based on its importation of its Chip SE or Chip GB.

On September 28, 2018, the ALJ issued a recommended determination on remedy, bonding, and the public interest (the “RD”). The ALJ recommended that, if the Commission finds a violation of section 337, it should issue a limited exclusion order (“LEO”) against infringing microfluidic devices, which are imported, sold for importation, and/or sold after importation by 10X. The LEO would prevent the importation by 10X of microfluidic devices that infringe Complainants’ asserted patents. The ALJ further recommended that, if the Commission finds a violation of section 337, it should issue a cease and desist order (“CDO”) against 10X. The CDO would prevent the transfer by 10X to others of microfluidic devices that

infringe Complainants' asserted patents. The ALJ found that "the public interest factors weigh in favor of imposition of the recommended remedial orders." RD at 30.

On December 4, 2018, the Commission determined to review the ALJ's findings as to the GEM Chips, the Chip SE, and the Chip GB. 83 FR 63672 (Dec. 11, 2018). The Commission also requested briefing from the parties, interested government agencies, and other interested persons on remedy, the public interest, and bonding. *Id.*

On June 10, 2019, the Commission issued another notice, which requested supplemental information from the parties, interested government agencies, and other interested persons on the public interest. 84 FR 27802 (June 14, 2019). The Commission's notice requested that the parties file their opening submissions by June 24, 2019, and their reply submissions by July 1, 2019. The Commission's notice also requested that interested government agencies and other interested persons file their comments by July 1, 2019.

To ensure the opportunity to respond to comments from interested government agencies and other interested persons, the Commission has determined to modify the briefing schedule to provide for reply submissions by July 15, 2019.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 28, 2019.

Lisa Barton,  
Secretary to the Commission.

